

1 APR 1990

REPLY TO: 6W-3E

MEMORANDUM

SUBJECT: Phillips Settlement and Subsequent Regulation Changes

FROM: Gus Chavarria
Chief
Oil Permits and Enforcement Section (6W-3E)

TO: Don Olson
Chief
Compliance and Enforcement Section UICB-HQ (WH-550E)

A review of the Phillips settlement (copy attached) has indicated a need for additional wording to be included under the proposed paragraph 147.2912(d). As in the case with Phillips, we feel the additional requirement of a semi-annual measurement of the actual fluid level in the tubing/casing annulus is necessary to assure non-endangerment of a USDW. Therefore, we now suggest that paragraph 147.2912(d) read as follows:

147.2912(d)

"The RA, on a case-by-case basis, may allow the operation of a well with casing failure only, provided non-endangerment of a USDW can be demonstrated by a program of continuous monitoring of the tubing/casing annulus and semi-annual measurement of the actual annulus fluid level."

If you wish to discuss this further, please call.

Attachment

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

*My copy
re
Other copies
at Bureau file*

PHILLIPS PETROLEUM COMPANY,)
)
Petitioner,)
)
v.)
)
UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY, an agency of)
the United States;)
LEE THOMAS, in his capacity as)
Administrator of the United States)
Environmental Protection Agency;)
ROBERT E. LAYTON, in his capacity)
as Regional Administrator of)
Region VI of the United States)
Environmental Protection Agency,)
)
Respondents.)
)

Case No. 88-1114

SETTLEMENT AGREEMENT

Petitioner Phillips Petroleum Company ("Phillips") and Respondents United States Environmental Protection Agency, Lee M. Thomas, and Robert E. Layton (collectively "EPA"), intending to be bound by this Agreement, hereby stipulate and agree as follows:

1. On December 14, 1987, EPA denied Phillips' petition for an alternate program for demonstrating mechanical integrity under 40 C.F.R. § 147.2912(a)(1)(v). Phillips petitioned the court for review of that decision (hereinafter the "December 14 decision").

2. By letter to Phillips, EPA will withdraw the December 14 decision for further consideration. EPA subsequently will issue a decision on Phillips' petition.

3. Phillips will move within ten (10) days of receipt of the letter referenced in paragraph 2 to dismiss its petition for review, on the grounds of mootness. Phillips may state that EPA supports the motion.

4. Phillips will continue to test the mechanical integrity of the tubing and packer of all active wells in the North and South Burbank units, pursuant to 40 C.F.R. § 147.2912. The rest of this Agreement does not apply to active wells with significant leaks in the tubing or packer.

IF MIT

5. If mechanical integrity tests demonstrate casing leaks, or if Phillips admits the presence of casing leaks, then Phillips will implement the monitoring program in paragraphs 6-10 below, for active wells with such leaks and for all inactive wells that do not have mechanical integrity.

6. As used in this Agreement, "USDW" means underground source of drinking water as defined in 40 C.F.R. § 147.2902. The current Agency view of "base of USDW" is as shown on EPA's plat entitled "Elevation of USDW Above Sea Level" dated January 1988. If Phillips believes that technical or interpretive data indicates error in determining the base of USDW shown on the plat, that data will be considered, and a determination made, by EPA's Dallas office.

7. Phillips will install on each active and inactive well described in paragraph 5 above, a continuous monitoring system which would immediately detect and warn of fluid level in the casing-tubing annulus within 100 feet of the base of the lowest USDW. Beginning upon signature of this Agreement, the systems shall be installed at a rate of forty-five (45) per month, with active wells given priority. All required monitoring systems will be installed by December 31, 1989.

8. At least once every six months, Phillips will measure the actual fluid level in the casing-tubing annulus. Phillips will report these measurements to the EPA regional office in Dallas, Texas.


9. If the static fluid level in the casing-tubing annulus rises to within 100 feet of the base of the USDW, Phillips will report within 48 hours, or on the next business day (whichever is later), by telephone, to the Osage UIC Office. Phillips will then, within five (5) days, reset the fluid level monitoring device to detect casing-tubing annulus fluid at a level of within 75 feet of the base of the USDW. If the static fluid level in the casing-tubing annulus should rise to within 75 feet of the base of the USDW, Phillips again will notify the Osage UIC office of such in the above described manner 'and' also report the rate in feet per day at which such rise occurred. Phillips will, within five (5) days, again reset the fluid level

monitoring device to detect casing-tubing annulus fluid at a level of within 50 feet of the base of the USDW. Phillips will again notify the Osage UIC office if the fluid level should rise to within 50 feet of the base of the USDW and of the rate of rise.

10. Beginning thirty (30) days from the date of this Agreement, if the fluid level in the casing-tubing annulus of an active well does not remain continuously at least 50 feet below the base of the USDW as reflected by this monitoring program, Phillips will immediately shut-in the well and notify the EPA's regional office in Dallas, Texas.

11. If the fluid level in the casing-tubing annulus of a newly shut-in well or other inactive well does not remain continuously at least 50 feet below the base of the USDW, Phillips will, within fifteen (15) days, submit for EPA approval a plan to lower the fluid level, to repair the well, or to properly plug and abandon the well. Such plan shall include a schedule. The lowering, repairing, or plugging shall be accomplished in accordance with the approved plan.

Dated: Oct. 20, 1988



DIANE C. REGAS
Environmental Protection
Agency
Office of General Counsel
401 M Street, S.W.
Washington, D.C. 20460

Dated:

November 3, 1988

REESE B. COPELAND
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